

OCT 14 2005

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

ARCELIA HERNANDEZ-RAMIREZ,

Petitioner,

v.

ALBERTO GONZALES, Attorney General,

Respondent.

No. 03-72124

BIA No. A77-761-880

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Argued and Submitted September 16, 2005
Pasadena, California

Before: SILVERMAN and CALLAHAN, Circuit Judges, and DUFFY**,
District Judge.

Arcelia Hernandez-Ramirez (“Petitioner”), a native and citizen of Mexico,
petitions for review of the decision of the Board of Immigration Appeals (“BIA”),

* This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The Honorable Kevin Thomas Duffy, United States District Judge for the
Southern District of New York, sitting by designation.

which summarily affirmed an Immigration Judge's ("IJ's") decision finding her inadmissible for alien smuggling. Reviewing for substantial evidence, *see Nakamoto v. Ashcroft*, 363 F.3d 874, 882 (9th Cir. 2004), we deny the petition for review. Because the BIA issued its affirmance without written opinion, we review the underlying decision of the IJ. *See* 8 C.F.R. § 1003.1(a)(7) (2003); *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 849 (9th Cir. 2003).

Substantial evidence supports the IJ's conclusion that Petitioner is inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(E)(i), which states: "Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible." Evidence before the IJ indicated that Petitioner (who has been validly paroled into the United States since 1997) knew of her cousin's undocumented status before driving the cousin from Tijuana to the United States border. Additional evidence indicated that Petitioner drove her cousin to the border knowing she would lie about her citizenship in an attempt to reenter the United States. Further testimony indicated that, during secondary inspection, Petitioner lied to immigration officials on her cousin's behalf, telling them that her cousin had left her green card at home in California. Accordingly, we deny the Petition for Review.

Petitioner's claim that "The IJ erred in finding Petitioner knowingly smuggled two aliens into the United States" is without merit. The crux of this claim is that, because the Notice to Appear served upon Petitioner stated, "On or about April 02, 2000, you knowingly encouraged, induced, assisted, abetted, or aided an undocumented alien to attempt entry into the United States in violation of the law" (emphasis added), the IJ was precluded from finding that Petitioner actually aided two undocumented aliens in their attempt to enter the country. Petitioner offers no authority in support of her novel argument and we find it unpersuasive.

Finally, Petitioner's challenge to the BIA's streamlining procedure is foreclosed by *Falcon Carriche*, 350 F.3d at 852.

PETITION DENIED.